

REMARKS

This amendment and election is in response to the Office Action, dated May 10, 2007 (“Office Action”). Following entry of the present amendment, claims 14-28 and 33-34 remain pending; claims 29-32 having been canceled by virtue of the present amendment. Examination of the pending claims in view of the foregoing amendment and ensuing remarks is respectfully requested.

The amendment to the title is made to correct a PTO error. The word “new” appeared at the beginning of the title in the international application from which this national phase application is derived as well as in the Application Data Sheet submitted by Applicants with the present application. However, it was omitted from the title in the PTO filing receipt.

In the Office Action, Examiner required election among aspects of the claimed invention depicted in Groups I-X under 35 U.S.C. §372 and PCT Rule 13. These Groups included the following:

- I. Claims 14-28 (in part): drawn to products of Formula (I), wherein Y is a valency bond and n is zero;
- II. Claims 14-28 (in part): drawn to products of Formula (I), wherein Y is a valency bond and n is integer 1;
- III. Claims 14-28 (in part): drawn to products of Formula (I), wherein Y is a straight or branched chain C1-4 alkene and n is zero;
- IV. Claims 14-28 (in part): drawn to products of Formula (I), wherein Y is a straight or branched chain C1-4 alkene and n is integer 1;
- V. Claims 14-28 (in part): drawn to products of Formula (I), wherein Y is a carbonyl-amino-C1-4 alkene and n is zero;
- VI. Claims 14-28 (in part): drawn to products of Formula (I), wherein Y is a carbonyl-amino-C1-4 alkene and n is integer 1;
- VII. Claims 14-28 (in part): drawn to products of Formula (I), wherein Y is a -S-(CH₂)_m- and n is zero;

- VIII. Claims 14-28 (in part): drawn to products of Formula (I), wherein Y is a -S-(CH₂)_m- and n is integer 1;
- IX. Claims 29-32: drawn to a method for the preparation of a compound of Formula (I); and
- X. Claims 33-34: drawn to a method for treating a disease by administering a compound of Formula (I).

Examiner further noted that a species of a single compound must be elected.

Applicants hereby elect the embodiment of the instant invention described in **Group I** (claims 14-28 (in part)) for prosecution on the merits. Applicants further hereby elect the species of **2-(2,2,6,6-tetramethyl-1,2,3, 6-tetrahydro-pyridin-4-yl)-1H-benzimidazole 4-carboxylic acid amide** (*i.e.*, compound #19 from the Table included in the specification). Furthermore, Applicants submit that claims 14-28 and 33-34 read on this species. Applicants reserve the right to pursue the claims drawn to non-elected embodiments of the present invention in one or more divisional applications.

The foregoing election notwithstanding, Applicants respectfully traverse the restriction requirement and submit that it is improper. Examiner cites PCT Rule 13 as the basis for the restriction requirement. This Rule provides that “the requirement of unity of invention . . . shall be fulfilled only when there is a technical relationship among [the] inventions involving one or more of the same or corresponding special technical features. The expression ‘special technical features’ shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.” See PCT Rule 13.2.

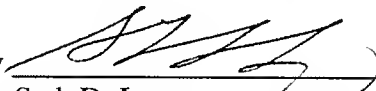
Here, each of the “inventions” identified by Examiner includes one or more of the same corresponding special technical features -- they all contain five- or six-membered ring nitroxide or their reduced precursors as an antioxidant moiety. It is respectfully submitted that at least this feature establishes unity of invention among the various groups. Withdrawal of the restriction requirement is thus respectfully requested.

Additionally, Applicants respectfully submit that unelected, independent process claim 33 (Group X) includes each of the limitations of elected product claim 14 (Group I). Applicants respectfully submit that the claims of Group X, drawn to a non-elected process for using the

product described in claim 14, and including all of the limitations thereof demonstrates sufficient unity of invention under the aforementioned standard so as to be includable in a single patent application and patent with the claims of Group I. Therefore, withdrawal of the restriction requirement at least with respect to these Groups is respectfully requested.

All of the claims in the application are believed to be allowable. Favorable consideration and a Notice of Allowance are earnestly solicited. If for any reason Examiner finds the application other than in condition for allowance, Examiner is requested to call the undersigned attorney at the Los Angeles telephone number (213) 633-6800 to discuss the steps necessary for placing the application in condition for allowance.

Respectfully submitted,
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